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August 5, 2016

VIA HAND DELIVERY

Mr. Jeff S. Jordan  
Assistant General Counsel  
Office of Complaints Examination and Legal Administration  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

Re: MUR No. 7101

Dear Mr. Jordan:

We write on behalf of our client, Chevron Corporation (“Chevron”), in response to your letter dated July 14, 2016. Your letter states that the Commission “received a complaint that indicates that Chevron Corporation may have violated the Federal Election Campaign Act of 1971, as amended.” The complaint does not name Chevron as a respondent or seek penalties, declaratory relief, or injunctive relief with respect to Chevron. Even if it had sought relief against Chevron, controlling law requires that the complaint be dismissed. Given the current state of the law, corporations are free to make contributions of the type specified in the complaint.

Presumably, Commission staff sent the complaint to Chevron because it states that Chevron made three contributions to federal independent expenditure-only committees in excess of \$5,000 and claims that it is unlawful under 52 U.S.C. § 30116(a)(1)(C) for any person to make contributions exceeding \$5,000 per calendar year to independent expenditure-only committees. Compl. ¶ 84. But in a unanimous *en banc* decision, the U.S. Court of Appeals for the D.C. Circuit concluded that this provision is unconstitutional as applied to contributions to independent expenditure-only committees. *See SpeechNow.org et al. v. FEC*, 599 F.3d 686, 696 (D.C. Cir. 2010) (*en banc*) (“The contribution limits of 2 U.S.C. § 441a(a)(1)(C) [later re-codified as 52 U.S.C. § 30116(a)(1)(C)] ... violate the First Amendment by preventing plaintiffs from donating to SpeechNow in excess of the limits”). The Ninth Circuit, within which Chevron is headquartered, also concluded that limiting the amount of contributions to an independent

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expenditure-only committee would violate the First Amendment. See *Long Beach Area Chamber of Commerce v. City of Long Beach*, 603 F.3d 684, 699 (9th Cir. 2010).

Moreover, in multiple advisory opinions, the Commission repeatedly has acknowledged that *SpeechNow*, and the Supreme Court's decision in *Citizens United*, preclude it from imposing limits on contributions to independent expenditure-only committees. See FEC Adv. Op'n 2010-11 ("Commonsense Ten") ("Given the holdings in *Citizens United* and *SpeechNow*, that independent expenditures do not lead to, or create the appearance of, *quid pro quo* corruption, the Commission concludes that there is no basis to limit the amount of contributions to the Committee from individuals, political committees, corporations and labor organizations.") (internal citation omitted); see also FEC Adv. Op'n 2010-09 (Club for Growth) ("because the Committee, like *SpeechNow*, intends to make only independent expenditures, there is no basis to impose contribution limits on the Committee").

The Commission cannot impose "any sanction" on Chevron for conduct expressly permitted by these advisory opinions. See 52 U.S.C. § 30109(c)(2) ("any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (1) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act") (emphasis added).

Because controlling U.S. Supreme Court decisions, federal appeals court decisions, and Commission advisory opinions all have held that contributions to independent expenditure-only committees are not subject to contribution limits, the complaint is completely without merit and should be dismissed.

Respectfully submitted,

  
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